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**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation
Against:

Gerald Oilschlager, M.D.

Physician's and Surgeon's
Certificate No. G 6579

Respondent

File No. 06-2001-119624

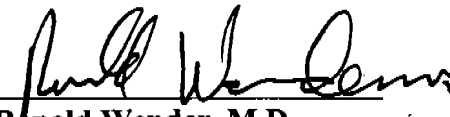
DECISION

The attached **Stipulation to Surrender License and Order** is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 17, 2003

IT IS SO ORDERED April 10, 2003

MEDICAL BOARD OF CALIFORNIA

By: 
Ronald Wender, M.D.,
Chair
Panel B
Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 DIANE M. L. TAN, State Bar No. 86571
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
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6 Attorneys for Complainant

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9 **BEFORE THE**
10 **DIVISION OF MEDICAL QUALITY**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 06-2001-119624

13 **GERALD A. OILSCHLAGER, M.D.**
236 Atlantic Avenue, Apt. 5
14 Long Beach, California 90802

**STIPULATION TO
SURRENDER LICENSE
AND ORDER**

15 Physician and Surgeon's
Certificate No. G 6579,

16
17 Respondent.

18 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties in
19 the above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Complainant, Ron Joseph, is the Executive Director of the Medical Board
22 of California, and has brought this action solely in his official capacity. Complainant is
23 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
24 Diane M. L. Tan, Deputy Attorney General.

25 2. Respondent, Gerald A. Oilschlager, M.D. ("respondent"), represents
26 himself in this matter.

27 3. On January 31, 1961, the Medical Board of California issued Physician
28 and Surgeon's Certificate No. G 6579 to Gerald A. Oilschlager, M.D. At all times relevant to the

1 charges in this matter, respondent's Physician and Surgeon's Certificate was valid until that
2 license expired on September 30, 2002.

3 JURISDICTION

4 4. The Accusation in Case No. 06-2001-119624, was filed with the Division
5 of Medical Quality ("the Division"), Medical Board of California, Department of Consumer
6 Affairs, State of California, on December 19, 2001. Currently, this matter against respondent is
7 pending. The Accusation and all other statutorily required documents were duly served on
8 respondent on December 19, 2001. On or about January 7, 2002, respondent filed a Notice of
9 Defense. A copy of the Accusation is attached as "Exhibit 1" and incorporated herein by
10 reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read and understands the charges and allegations
13 in the Accusation in Case No. 06-2001-119624, and the effects of this Stipulation to Surrender
14 License and Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations that are set forth in the Accusation; the right to
17 consult with and be represented by counsel at his own expense; the right to confront and cross-
18 examine the witnesses testifying against him; the right to present evidence and to testify on his
19 own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
20 production of documents and other things in his defense and as proof of mitigation; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act (Gov. Code, §§ 11340 et seq., 11370 et seq., 11400 et
23 seq., and 11500 et seq.) and other applicable laws.

24 7. Respondent voluntarily, knowingly and intelligently waives and gives up
25 each and every right as stated above.

26 ADMISSIONS

27 8. Respondent understands that the charges and allegations in the
28 Accusation, if proven at a hearing, constitute causes for imposing discipline upon his physician

1 and surgeon's certificate.

2 9. In the event that respondent seeks relicensure or reinstatement of his
3 license as a physician and surgeon in the State of California, respondent will admit that he was
4 convicted of a crime that is substantially related to the qualifications, functions or duties of a
5 physician and surgeon in violation of sections 2234, subdivision (a) and 2236 of the Business
6 and Professions Code ("the Code") pursuant to his plea of nolo contendere to two felony counts
7 of presenting fraudulent or false Medi-Cal claims (Welf. & Inst. Code, § 14107), and will agree
8 that such conviction constitutes cause for discipline.

9 10. In order to resolve this matter without the necessity of a costly and
10 protracted hearing, and because respondent has voluntarily retired from the practice of medicine
11 since about August 2001, and due to the status of his health, respondent agrees to surrender his
12 Physician and Surgeon's Certificate No. G 6579 for the Division's formal acceptance and to be
13 bound by the Division's Order as set forth below.

14 **EFFECTS OF SURRENDER**

15 11. Respondent understands that by signing this stipulation, he enables the
16 Division to issue its order accepting the surrender of his Physician and Surgeon's Certificate
17 without further process.

18 12. Upon acceptance of the stipulation by the Division, respondent
19 understands that he will no longer be permitted to practice as a physician and surgeon in this
20 state, and also agrees to surrender and cause to be delivered to the Division his physician and
21 surgeon's license, including his wall certificate and wallet card, all triplicate and regular
22 prescriptions, Drug Enforcement Administration Drug Order Forms, and any and all Drug
23 Enforcement Administration permits issued to him before the effective date of the Division's
24 Decision in this matter.

25 13. Respondent fully understands and agrees that if he ever files an application
26 for relicensure or reinstatement in the State of California, the Division shall treat it as a petition
27 for reinstatement. Respondent must comply with all the laws, regulations and procedures for
28 reinstatement of a license which has been revoked, that are in effect at the time the petition is

1 filed, and must reimburse the Division the sum of One Thousand Dollars (\$1,000.00) for the
2 costs of investigation and prosecution of this matter as a requirement for reinstatement of such
3 license. In the event that respondent seeks reinstatement of his license to practice medicine in
4 California, his admissions as set forth in Paragraph 9 of this Stipulation to Surrender License
5 shall be deemed to be true and correct when the Division determines whether to grant or deny the
6 application for relicensure or reinstatement of his license to practice medicine.

7 CONTINGENCY

8 14. This Stipulation to Surrender License and Order shall be subject to the
9 approval of the Division. Respondent understands and agrees that the Medical Board of
10 California's staff and counsel for Complainant may communicate directly with the Division
11 regarding this stipulation and settlement, without notice to or participation by respondent or his
12 counsel. If the Division does not adopt this stipulation as its Decision in this matter, except for
13 this paragraph, the Stipulation to Surrender License and Order shall have no force or effect on
14 any of the parties, it shall be inadmissible in any legal action between the parties, and the
15 Division shall not be disqualified from taking any further action as a result of its consideration of
16 this matter.

17 15. The parties agree that facsimile copies of this Stipulation to Surrender
18 License and Order, including facsimile copies of the signatures contained therein, shall have the
19 same force and effect as the original Stipulation to Surrender License and Order and signatures in
20 the stipulation.

21 16. For the purpose of resolving this matter and in consideration of the
22 foregoing admissions and stipulations, the parties agree that the Division shall, without further
23 notice or formal proceeding, issue and enter the following Order:

24 ORDER

25 **IT IS HEREBY ORDERED** that the surrender of Physician and Surgeon's
26 Certificate No. G 6579, including, but not limited to, the wall certificate and wallet card, all
27 triplicate and regular prescriptions, Drug Enforcement Administration Drug Order Forms, and
28 any and all Drug Enforcement Administration permits issued to Respondent Gerald A.

1 Oilschlager, M.D., are accepted by the Division of Medical Quality of the Medical Board of
2 California.

3 **IT IS FURTHER ORDERED** that respondent shall comply with all of the
4 requirements set forth in the Stipulation to Surrender License and any other applicable
5 requirements for reinstatement of a revoked license in the event that he seeks reinstatement of his
6 physician and surgeon's certificate in the State of California.

7 **ACCEPTANCE**

8 I, Gerald A. Oilschlager, M.D., have carefully and fully read the above Stipulation
9 to Surrender License and Order. I also fully understand that I have the right to consult with my
10 own counsel regarding the terms and conditions and other matters contained in this Stipulation to
11 Surrender License and Order. I fully understand and agree with all of the terms and conditions
12 set forth in this Stipulation to Surrender License and Order.

13 I hereby freely and voluntarily sign this stipulation with the full understanding
14 and knowledge of its force and effect. I agree to surrender and deliver to the Medical Board of
15 California prior to the effective date of the Division of Medical Quality's Decision in this matter,
16 my Physician and Surgeon's Certificate No. G 6579, including the wall certificate and wallet
17 card issued by the Board, all triplicate and regular prescriptions, Drug Enforcement
18 Administration Drug Order Forms, and any and all Drug Enforcement Administration permits
19 issued to me, for the Division's formal acceptance.

20 By signing this Stipulation to Surrender License and Order, I recognize that upon
21 its formal acceptance by the Division, I will no longer have any of the rights and privileges to
22 practice medicine in the State of California. I hereby freely, voluntarily, intelligently and
23 knowingly agree to be bound by this Stipulation to Surrender License and Order.

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28 ///

1 I further agree that a facsimile copy of this Stipulation to Surrender License and
2 Order, including facsimile copies of the signatures in this stipulation, may be used with the same
3 force and effect as the original of this Stipulation to Surrender License and Order.

4 DATED: January 22, 2003

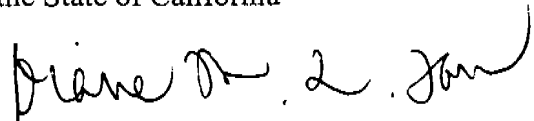
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6 
7 GERALD A. OILSCHLAGER, M.D.
8 Respondent

9 **ENDORSEMENT**

10 The foregoing Stipulation to Surrender License and Order is hereby respectfully
11 submitted for consideration by the Division of Medical Quality, Medical Board of California,
12 Department of Consumer Affairs, State of California.

13 DATED: March 19, 2003

14 BILL LOCKYER, Attorney General
15 of the State of California

16 

17 DIANE M. L. TAN
18 Deputy Attorney General

19 Attorneys for Complainant
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Exhibit 1

Accusation

Case No. 06-2001-119624

1 BILL LOCKYER, Attorney General
of the State of California
2 ADRIAN K. PANTON, State Bar No. 64459
Supervising Deputy Attorney General
3 DIANE M. L. TAN
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300 So. Spring Street, Suite 1702
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6 Facsimile: (213) 897-1071

7 Attorneys for Complainant

8
9 **BEFORE THE**
10 **DIVISION OF MEDICAL QUALITY**
11 **MEDICAL BOARD OF CALIFORNIA**
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 06-2001-119624

13 GERALD A. OILSCHLAGER, M.D.,
755 Obispo Avenue, Unit #1
14 Long Beach, CA 90804

OAH No.

A C C U S A T I O N

15 Physician and Surgeon Certificate No. G6579

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Ron Joseph (Complainant) brings this Accusation solely in his official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs.

23 2. On or about January 31, 1961, the Medical Board of California issued
24 Physician and Surgeon Certificate Number G6579 to Gerald A. Oilschlager, M.D. (Respondent).
25 The Physician and Surgeon Certificate was in full force and effect at all times relevant to the
26 charges brought herein and will expire on September 30, 2002, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Division of Medical Quality,

1 Medical Board of California (Division), under the authority of the following sections of the
2 Business and Professions Code (Code).

3 4. Section 2227 of the Code provides that a licensee who is found guilty
4 under the Medical Practice Act may have his or her license revoked, suspended for a period not
5 to exceed one year, placed on probation and required to pay the costs of probation monitoring, or
6 such other action taken in relation to discipline as the Division deems proper.

7 5. Section 2234 of the Code states:

8 "The Division of Medical Quality shall take action against any licensee who is
9 charged with unprofessional conduct. In addition to other provisions of this article,
10 unprofessional conduct includes, but is not limited to, the following:

11 "(a) Violating or attempting to violate, directly or indirectly, or assisting in or
12 abetting the violation of, or conspiring to violate, any provision of this chapter [Chapter
13 5, the Medical Practice Act].

14 "(b) Gross negligence.

15 "(c) Repeated negligent acts.

16 "(d) Incompetence.

17 "(e) The commission of any act involving dishonesty or corruption which is
18 substantially related to the qualifications, functions, or duties of a physician and surgeon.

19 "(f) Any action or conduct which would have warranted the denial of a
20 certificate."

21 6. Section 2236 of the Code states:

22 "(a) The conviction of any offense substantially related to the qualifications,
23 functions, or duties of a physician and surgeon constitutes unprofessional conduct within
24 the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of
25 conviction shall be conclusive evidence only of the fact that the conviction occurred.

26 "."

27 7. Section 490 of the Code states:

28 "A board may suspend or revoke a license on the ground that the licensee has

1 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
2 duties of the business or profession for which the license was issued . A conviction within the
3 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
4 contendere. Any action which a board is permitted to take following the establishment of a
5 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
6 been affirmed on appeal, or when an order granting probation is made suspending the imposition
7 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
8 Penal Code."

9 8. Section 802.1 of the Code states:

10 "(a) A physician and surgeon shall report any of the following to the Medical
11 Board of California in writing within 30 days:

12 "(1) The bringing of an indictment or information charging a felony against the
13 physician and surgeon.

14 "(2) The conviction of the physician and surgeon, including any verdict of guilty,
15 or plea of guilty or no contest, of any felony.

16 "."

17 9. Section 125.3 of the Code provides, in pertinent part, that the Division
18 may request the administrative law judge to direct a licensee found to have committed a
19 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
20 investigation and enforcement of the case.

21 **PROHIBITION AGAINST MEDI-CAL REIMBURSEMENT**

22 10. Section 14124.12 of the Welfare and Institutions Code states, in pertinent
23 part:

24 "(a) Upon receipt of written notice from the Medical Board of California, the
25 Osteopathic Medical Board of California, or the Board of Dental Examiners of
26 California, that a licensee's license has been placed on probation as a result of a
27 disciplinary action, the department may not reimburse any Medi-Cal claim for the type of
28 surgical service or invasive procedure that gave rise to the probation, including any

1 dental surgery or invasive procedure, that was performed by the licensee on or after the
2 effective date of probation and until the termination of all probationary terms and
3 conditions or until the probationary period has ended, whichever occurs first. This
4 section shall apply except in any case in which the relevant licensing board determines
5 that compelling circumstances warrant the continued reimbursement during the
6 probationary period of any Medi-Cal claim, including any claim for dental services, as so
7 described. In such a case, the department shall continue to reimburse the licensee for all
8 procedures, except for those invasive or surgical procedures for which the licensee was
9 placed on probation.”

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Conviction of a Crime)

12 11. Respondent is subject to disciplinary action under Code section 2236 in
13 that he has been convicted of a crime substantially related to the qualifications, functions, or
14 duties of a physician and surgeon. The circumstances are as follows:

15 12. On or about February 8, 2001, in case number NA046382 of the
16 Municipal Court of the State of California, County of Los Angeles, Long Beach Division, in the
17 proceeding entitled *The People of the State of California v. Gerald Albert Oilschlager*,
18 respondent was convicted by a plea of no contest to one felony count of presenting a false Medi-
19 Cal claim in violation of Welfare and Institutions Code section 14107. The plea was certified to
20 the Superior Court of California, County of Los Angeles, where on March 13, 2001, the
21 imposition of sentence was suspended and respondent placed on formal probation for a period of
22 three years. Under the terms and conditions of probation, respondent, among other
23 requirements, was ordered to serve two days in county jail with credit for two days served, pay a
24 restitution fine of \$200 pursuant to Penal Code section 1202.4(B), and make restitution as
25 ordered by the probation officer pursuant to Penal Code section 1202.4(F).

26 13. The conviction arose from respondent's association with the Victor Clinic
27 in Long Beach, California where he served as Medical Director from August 1997 through
28 March 1998. Respondent admitted that the clinic was owned by an unlicensed person and that

1 he falsified patient records by making false entries regarding physical examinations, tests, and
2 diagnoses and allowed false claims to be presented to Medi-Cal based on the false entries in the
3 patient records.

4 **SECOND CAUSE FOR DISCIPLINE**

5 (Dishonesty)

6 14. Respondent is subject to disciplinary action under Code section 2234,
7 subdivision (e), in that he committed acts of dishonesty or corruption which are substantially
8 related to the qualifications, functions, or duties of a physician and surgeon. The circumstances
9 are as follows:

10 15. The facts and allegations in paragraphs 11 through 13 are incorporated
11 here by reference.

12 **THIRD CAUSE FOR DISCIPLINE**

13 (Unprofessional Conduct)

14 16. Respondent is subject to disciplinary action under Code section 2234 in
15 that he engaged in acts of unprofessional conduct. The circumstances are as follows:

16 17. The facts and allegations in paragraphs 11 through 13 are incorporated
17 here by reference.

18 18. Respondent failed to report the felony conviction to the Medical Board of
19 California as required by Code section 802.1.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the Division of Medical Quality issue a decision:

23 1. Revoking or suspending Physician and Surgeon Certificate Number
24 G6579, issued to respondent Gerald A. Oilschlager, M.D.;


25 2. Revoking, suspending or denying approval of respondent's authority to
26 supervise physician's assistants, pursuant to section 3527 of the Code;

27 3. Ordering respondent to pay the Division of Medical Quality the
28 reasonable costs of the investigation and enforcement of this case, and, if placed on probation,

1 the costs of probation monitoring;
2

3 4. Taking such other and further action as deemed necessary and proper.

4 DATED: December 19, 2001
5

6 
7 RON JOSEPH
8 Executive Director
9 Medical Board of California
10 Department of Consumer Affairs
11 State of California
12 Complainant

11 03573160-LA2001AD1443
12 2Accusation.wpt 10/19/01
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